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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,061	11/19/2003	Christopher J. Cookson	3053-070	7222
22440	7590	04/29/2005	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC			HUBER, PAUL W	
270 MADISON AVENUE			ART UNIT	
8TH FLOOR			PAPER NUMBER	
NEW YORK, NY 100160601			2653	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,061	Applicant(s) COOKSON ET AL.	
	Examiner Paul Huber	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, 8 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Choi (USP-5,646,929).

Regarding claims 1, 3-6, 8, 10, 11 and 13-17, Choi discloses a disk player for reading data from an optical disc 20 having two data layers accessible from the same side of the disc 20. See figures 2-4. The player includes: a source of laser beams 30 & 40 generating respective first and second incident laser beams; an optical assembly 50 including a focusing member 21 moved to focus the first beam on the first data layer 21 and the second beam on the second data layer 25 to obtain respective first and second reflected beams; a first data detector (left side detector of element 60) that detects data from the first reflected beam to generate a first data stream corresponding to data from the first data layer 21; and a second data detector (right side detector of element 60) that detects data from the second reflected beam to generate a second data stream corresponding to data from the second data layer 25.

Regarding claim 12, since the information recorded on layers 21 and 25 is optically recorded in the form of digital data, the method of reading data from the multi-layer optical disc inherently includes the step of decoding the data streams read from the disc as claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choi, as applied to claim 1 above, in further view of Ogura et al. (USP-6,269,065).

Choi discloses the invention as claimed, but fails to specifically teach that the disc player further includes a first decoder that decodes the first data stream to generate a first decoded data stream, and a second decoder that decodes the second data stream to generate a second decoded data stream. However, Ogura et al. discloses a disc player (see figure 6) that reproduces information from an optical disk 1 of a second generation CD having a double-layered structure, wherein data of a first conventional format is recorded on a first layer L1 and data of a second higher quality format is recorded on a second layer L2, in the same field of endeavor, for the purpose of reproducing a second generation CD having high sound quality that is compatible with conventional disc players. See col. 2, lines 7-19 and col. 7, lines 47-59. In the disc player of Ogura et al., a first decoder 28 decodes a first data stream to generate a first decoded data stream corresponding to the first layer L1, and a second decoder 29 decodes a second data stream to generate a second decoded data stream corresponding to the second layer L2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Choi such that the disc player further includes a first decoder that decodes the first data stream to generate a first decoded data stream, and a second decoder that decodes the second data stream to generate a second decoded data stream, as claimed and as taught by Ogura et al. A practitioner in the art would have been motivated to do this for the purpose of reproducing a second generation CD, as taught by Ogura et al., having high sound quality that is compatible with conventional disc players.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakano and Yanagawa each disclose an optical pick-up device for reproducing information from a multi-layer optical disc.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 571-272-7588.



Paul Huber
Primary Examiner
Art Unit 2653

pwh
April 27, 2005